

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

TONY QUESINBERRY,

Plaintiff,

v.

CIVIL ACTION NO. 1:16-02151

NANCY A. BERRYHILL,  
Acting Commissioner of Social Security,

Defendant.

**MEMORANDUM OPINION AND ORDER**

By Order, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of findings and recommendations regarding disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). ECF. No. 21. Magistrate Judge Tinsley submitted his Proposed Findings and Recommendation ("PF&R") to the court on August 31, 2017, in which he recommended that the district court grant Plaintiff's Motion for Summary Judgment, ECF No. 17, deny Defendant's Brief in Support of Defendant's Decision, ECF No. 20, reverse the final decision of the Commissioner, remand the case for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g), and direct the Clerk to remove the matter from the court's docket.

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted fourteen days, plus three mailing

days, in which to file any objections to Magistrate Judge Tinsley's PF&R. The failure of any party to file such objections constitutes a waiver of such party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

The parties failed to file any objections to the Magistrate Judge's PF&R within the seventeen-day period. Having reviewed the PF&R filed by the Magistrate Judge, the court adopts the findings and recommendation contained therein.

Accordingly, the court adopts the factual and legal analysis contained within the PF&R, **GRANTS** the Plaintiff's Motion for Summary Judgment, **DENIES** the Defendant's Brief in Support of Defendant's Decision, **REVERSES** the final decision of the Commissioner, **REMANDS** the case to the Commissioner of Social Security for further administrative proceedings pursuant to sentence four of 42 U.S.C. § 405(g), and **DIRECTS** the Clerk to remove this matter from the court's docket.

The Clerk is further directed to forward a copy of this Memorandum Opinion and Order to all counsel of record.

It is **SO ORDERED** this 25th day of September, 2017.

ENTER:

David A. Faber

David A. Faber  
Senior United States District Judge